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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,664	04/16/2007	Gary Hopkins Sr	AH126/2005.5	2259
7590 10/22/2010				
David W. Carrithers CARRITHERS LAW OFFICE, PLLC Ste 206 6200 Dutchman's Lane Louisville, KY 40205				
EXAMINER				
VAN, QUANG T				
ART UNIT		PAPER NUMBER		
3742				
MAIL DATE		DELIVERY MODE		
10/22/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/573,664

Applicant(s)

HOPKINS SR, GARY

Examiner

Quang T. Van

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/22)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date 4/16/07

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "base defines a plurality of compartments", recited in claim 4, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Livingstone (US Re 25,906). Livingstone discloses a cover and container comprising a container (Figure 1) defining a compartment for holding food, the container including a first member (5) sealed to a second member (6) to define the compartment, wherein the first member (5) has a coefficient of thermal expansion (col. 9, lines 45-47) that is different than the coefficient of thermal expansion of the second member (6, col. 9, lines 45-47), wherein the heating of the members forms a vent in the seal between the first member (5) and the second member (6).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Livingstone (US Re 25,906) in view of Fritz (US 5,322,182). Livingstone discloses substantially all features of the claimed invention except the base defines a plurality of compartments. Fritz discloses a base defines a plurality of compartments (figures 1, 3-5). It would have been obvious to one ordinary skill in the art at the time the invention

was made to utilize in Livingstone a base defines a plurality of compartments as taught by fritz in order to store different kinds of food in separated compartments.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Livingstone (US Re 25,906) in view of Husband et al (US 2003/0222100). Livingstone discloses substantially all features of the claimed invention except the base is composed of a polyester terephthalate. Husband discloses a base is composed of a polyester terephthalate (claim 2, line 7). It would have been obvious to one ordinary skill in the art at the time the invention was made to utilize in Livingstone a base is composed of a polyester terephthalate as taught by Husband in order to withstand the high temperature environment.

7. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Livingstone (US Re 25,906) in view of Hakim (US 2002/0040906). Livingstone discloses substantially all features of the claimed invention except a pluralities of second members constructed and arranged to cover the plurality of compartments defined by the base. Hakim discloses a pluralities of second members (22, 24, 26, Figure 1A) constructed and arranged to cover the plurality of compartments defined by the base (par. 0032). It would have been obvious to one ordinary skill in the art at the time the invention was made to utilize in Livingstone a pluralities of second members constructed and arranged to cover the plurality of compartments defined by the base as taught by Hakim in order to keep warm other compartments while serving one compartment.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T. Van whose telephone number is 571-272-4789. The examiner can normally be reached on 8:00Am 5:00Pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang T Van/
Primary Examiner, Art Unit 3742
October 20, 2010

Quang T Van
Primary Examiner
Art Unit 3742